

Louisiana Environmental Action Network / LEAN



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Carol Browner
Environmental Protection Agency
401 M Street SW
Washington, DC 20460

July 11, 2000

Ref: A public petition under the 1990 Clean Air Act regarding three proposed permits for the Shell Chemical Company expansion in Geismar, Louisiana.

Dear Ms Browner,

This public petition is submitted on behalf of the Caring Parents of Geismar, Ascension Parish Residents Against Toxic Pollution, Concerned Citizens of Iberville Parish, and the Louisiana Environmental Action Network, and is submitted via facsimile and letter to the office of Carol Browner. This petition is submitted as a public petition for each individual permit separately and also as a petition for all three permits collectively. The comments below constitute a public petition for each of the three proposed permits and a petition opposing all three petitions collectively. Public hearings for these proposed permits were held in May and July of 2000.

1. This is our submission of a civil rights violation and complaint under Title VI of the Civil Rights Act. This complaint is alleging that discriminatory effects resulting from the issuance of pollution control permits by state of Louisiana and the Louisiana Department of Environmental Quality have occurred in and near the Alsen area of Louisiana, including the north Baton Rouge area. This complaint further alleges that the granting of a permit allowing air emissions from the proposed Exxon polypropylene facility will be a discriminatory act and will create a disparate impact that adds to an existing disparate impact on a racial or ethnic population, creates a disparate impact on a racial or ethnic population or adds to an



existing disparate impact on a racial or ethnic population.

In addition to submitting a civil rights complaint, we request that the Environmental Protection Agency and the Justice Department investigate all permitting efforts by the state of Louisiana and determine if civil rights violations have occurred in the past due to effects resulting from the issuance of pollution control permits by state of Louisiana and the Louisiana Department of Environmental Quality in the Alsen and north Baton Rouge areas, and that these and other federal agencies find a method or remedy for alleviating these civil rights violations. We also ask that the proposed Exxon permit for the polypropylene facility be denied as a discriminatory act that will create a disparate impact on a racial or ethnic population and/or add to an existing disparate impact on a racial or ethnic population.

2. Granting this permit will inhibit reasonable further progress in the Baton Rouge ozone nonattainment area and, as such, is not in accordance with the Clean Air Act (CAA).

We contend that the requirements for reasonable further progress are included in, but not limited to, Section 173(a)(1)(A). This section is referenced by Sections 172(c)(5) and 182(a)(2)(C). This permitting provision first requires an emissions reduction below the baseline value, and in accordance with Section 182(c)(10) for serious ozone nonattainment areas. In addition, 173(a)(1)(A) requires that these reductions also represent reasonable further progress as defined in Section 171, which requires adequate emissions reductions "for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date."

The only emissions reductions achieved by the Shell permit was the proposed 1.2 to 1 reduction required in Section 182(c)(10). Unfortunately, this degree of reduction will not ensure attainment by November 15, 1999, the applicable date for the Baton Rouge nonattainment area. The emissions reduction proposed to be used by Shell was banked in the early 1990's, a time in which Baton Rouge was making progress towards attainment, and a time when attainment by 1999 looked very probable.

Since the early 90's, the ozone problems in the Baton Rouge nonattainment area have gotten much worse, with the last four years being especially bad. At the start of 1999 Baton Rouge had

four of its eleven monitors in noncompliance and three more very close to noncompliance. Baton Rouge had monitors in noncompliance at the November, 1999, attainment date.

This compares to 1994 when Baton Rouge had only two monitors out of compliance and the hope of achieving attainment by 1999. There have been several policy decisions that have pushed Baton Rouge farther away from attainment, and allowing the increased emissions from the proposed Shell plant in the manner proposed in the permit would do the same. The proposed permit for this facility can only make the ozone problems worse, and can't possibly meet the requirements of Title I of the CAA.

3. The most recent State Implementation Plan (SIP), dated January 2, 1997, fails to meet the requirements of section 182(c)(2)(A) of the CAA. The attainment demonstration plan submitted in the SIP clearly shows that the Baton Rouge nonattainment area plan provisions are inadequate and will not meet the requirement that the plan provisions "will provide for attainment of the ozone national ambient air quality standard by the applicable attainment date."

We would like to point out that none of the attainment demonstrations meet the NAAQS for ozone, with two of three not even coming close. Instead, these attainment demonstrations show that the plan provisions for the Baton Rouge nonattainment area will most definitely NOT provide for attainment by the applicable date.

We ask that the SIP provision plans be declared invalid and inadequate under Title I of the CAA because it will not provide for attainment of the ozone national ambient air quality standard by the applicable attainment date. This is made all too clear by the attainment demonstration. We are additionally requesting that the Administrator make a finding under section 110(k)(5) that the "applicable implementation plan for any area is substantially inadequate to attain or maintain the relevant national ambient air quality standard".

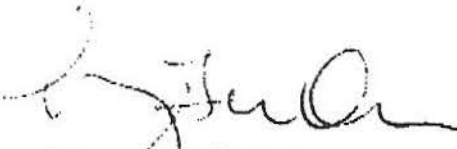
We are requesting that the sanctions associated with the finding of an inadequate attainment demonstration and/or inadequate plan provisions be the offset requirements of section 179(b)(1), and that these offset requirements pertain to all VOC increases associated with new or modified sources rather than just major sources.

In addition we request that the Administrator immediately classify the Baton Rouge nonattainment area as a severe ozone nonattainment area due to the failure of the attainment demonstration and the failure of the plan provisions of the state implementation plan.

4. The Louisiana emissions banking system is a failure. The use of offsetting emissions in the nonattainment area will only work as well as the banking system in Louisiana is working. If the banking doesn't work, the offsets won't work either. This is the condition that currently exists in the Baton Rouge ozone nonattainment area.

Failures of the Louisiana banking system include but are not limited to; failure to ensure that banked offsets are consistent with the Clean Air Act and failure to adequately enforce Louisiana's banking emissions program.

Sincerely,



Mary Lee Orr
Executive Director